IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3794 OF 2007

M/s.Ajantha Tiles Wele and Anr. ..Petitioners.

V/s.

The Sangli Bank Ltd.,Sangli & Anr. ..Respondents.

Mr.Rahul Kadam h/f. Mr.U.P.Warunjikar for petitioners.

CORAM: A.M.KHANWILKAR,J

DATE : JULY 4, 2007.

P.C. :

1. Heard counsel for the petitioners.

2. I see no reason to interfere with the discretionary order passed by the Court below requiring the petitioners to deposit sum of Rs.50,000/- before considering the request of the petitioners to set aside exparte decree passed against him. It is not in dispute that exparte decree passed against the petitioners is a money decree. In the circumstances, no fault can be found with the lower Court for having required the petitioners to deposit Rs.50,000/- to ascertain the bonafide of the petitioners. No case for interference in exercise of writ jurisdiction is warranted except to observe that the lower Court will

pass order about disbursal of the amount to the opposite party only after passing order on the application for condonation of delay in filing application for setting aside exparte decree.

3. It will be open to the petitioners to persuade the lower Court to refuse permission of withdrawal of the amount, if made by the opposite party and instead to invest the amount in any Nationalised Bank in a fixed deposit, so as to get fair return on the amount so deposited.

4. Petition disposed of on the above terms.